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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,909

03/07/2005

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EXAMINER

REDMAN, JERRY E

ART UNIT

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3634

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,909	<b>Applicant(s)</b> REID, ALISTER PETER	
	<b>Examiner</b> Jerry Redman	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25,29-34 and 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25,29-34 and 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

The status of the claims is as follows:

Claims 26-28 and 35-36 have been cancelled; and

Claims 1-25, 29-34, and 37 are herein addressed below.

The drawings are objected to because it is not clear where the cross-sectional view of Figures 2, 3, and 4 are taken from. Furthermore, where are elements 62-65 in Figure 4? At least either 62 and 63 or 64 and 65 should be shown in Figure 4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims 1-25, 29-34, and 37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As stated in detail in the previous office action dated 4/30/2007, it is not readily apparent to the Examiner how the latches work in ANY OF THE EMBODIMENTS. How does the latch move in the first embodiment (Figures 1 and 2)? There's no mechanical or electrical device which enables latch 14 to operate. Where's the biasing element? How does the latching elements (62 and 64) engage panel 66 in the second embodiment (Figures 3 and 4)? How do the latches (62 and 64) move to a retracted position?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9, 10, and 15 are further rejected under 35 U.S.C. 103(a) as being unpatentable over De La Cerda (5,992,096) in view of Harris (4,893,952). De La Cerda (5,992,096) discloses a pet door comprising a pivotably mounted flap (8), a latch mechanism (18 and 20) that can bar the flap from moving in both directions, and a control mechanism (12, 22, and 27) for disabling the latch mechanism. The latch mechanism is located between the front and back sides of the flap, so that the latch

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does not extend out either way. The control mechanism is located above the door flap on one side, as are the electrical components of the control system. The pet wears a key (24) that emits a coded signal that unlatches the flap. De La Cerda (5,992,096) fails to disclose the control mechanism as being an infrared radiation detector. However, Harris ('952) discloses using an infrared radiation in a system to determine whether something has approached a door. The infrared radiation detector is located above the door, depends downwardly into an upper edge of the opening, has a conical infrared radiation zone "A" with a beam angle of 60 degrees. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the pet door of De La Cerda (5,992,096) with the infrared radiation used in the invention of Harris since an infrared radiation detector is an obvious substitute for providing a specific type of detection signal. With respect to the signal being codes, it is well known that all infrared signals are specifically coded for specific functions. Furthermore, it is readily understood that the electrical components and the infrared radiation detector circuitry would be integrated together.

Claim 8 is further rejected under 35 U.S.C. 103(a) as being unpatentable over De La Cerda (5,992,096) and Harris (4,893,952), as applied to claim 1 above, and further in view of Kornbrekke (4,698,937). All of the elements of the instant invention are discussed in detail above except that De La Cerda ('096) fails to disclose the beam angle of about 90 degree. However, Kornbrekke ('937) discloses an infrared beam angle of 80 degrees (i.e., about 90 degrees). It would have been obvious to one of

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ordinary skill in the art at the time of the invention to provide the pet door of De La Cerda ('096) with a beam angle of about 90 degrees as taught by Kornbrekke since a wide beam angle provides a receiving zone wide enough to interact with any infrared transmission and therefore increasing the detection area.

Claim 11 is further rejected under 35 U.S.C. 103(a) as being unpatentable over De La Cerda (5,992,096) and Harris (4,893,952), as applied to claim 9 above, and further in view of Miconi (5,946,855). All of the elements of the instant invention are discussed in detail above except providing the control system with an actuator motor. Miconi ('855) discloses an actuator motor (66) to operate elements of a pet door (50) and the motor being actuated by an infrared sensor (68). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the pet door of De La Cerda ('096) with an actuator motor as taught by Miconi ('855) since motors are well known for operating latches on doors without requiring manual activation.

Claims 12-14, and 37 are further rejected under 35 U.S.C. 103(a) as being unpatentable over De La Cerda (5,992,096) and Harris (4,893,952), as applied to claim 1 above, and further in view of Engle (U.S. application 2002/0110373). All of the elements of the instant invention are discussed in detail above except providing an attenuating device for ambient infrared radiation. Engle (U.S. application 2002/0110373) discloses using a filter (35) made of an infrared absorbing material to permit transmission therethrough of only a selected range of wavelengths. It would

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have been obvious to one of ordinary skill in the art at the time of the invention to provide the pet door of De La Cerda ('096) with an attenuating device as taught by Engle (U.S. application 2002/0110373) since an attenuating device regulates in a precise manner and time when the door is allowed to open by filtering out any unwanted or undesired wavelengths.

Claims 16 and 18 are further rejected under 35 U.S.C. 103(a) as being unpatentable over De La Cerda (5,992,096) and Harris (4,893,952), as applied to claim 1 above, and further in view of Green (4,776,133). All of the elements of the instant invention are discussed in detail above except having a pet flap that is substantially transparent to infrared radiation. Green ('133) teaches a clear pet flap door. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the pet door of De La Cerda ('096) with a transparent flap as taught by Green ('133) since a transparent pet flap door allows infrared wavelengths to travel therethrough as well as allowing the pet to see to the other side of the door through the door opening.

Claim 17 is further rejected under 35 U.S.C. 103(a) as being unpatentable over De La Cerda (5,992,096), Harris (4,893,952) and Miconi ('855), as applied to claim 11 above, and further in view of Green ('133). All of the elements of the instant invention are discussed in detail above except providing a pet flap that is substantially transparent to infrared radiation. Green ('133) teaches a clear pet flap door. It would have been

obvious to one of ordinary skill in the art at the time of the invention to provide the pet door of De La Cerda ('096) with a transparent flap as taught by Green ('133) since a transparent pet flap door allows infrared wavelengths to travel therethrough as well as allowing the pet to see to the other side of the door through the door opening.

Claims 19-23, and 29-34 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Deighton (5,791,172) in view of over De La Cerda (5,992,096). Deighton ('172) discloses a key (74) that could be adapted to be fitted to a pet collar. The key has a window that is substantially transparent to infrared radiation and contains an infrared radiation transmitter, a control circuit and a battery (see column 4 of the specification). The key housing, as shown in Figure 8, includes a handle with an opening to receive a suspension element therethrough. The key is adapted to be suspended by the handle at an angle, can be adapted to be fixed to a rigid suspension element at a selected angle, and sends out an infrared beam with a beam axis at an angle. The key hangs under its own weight and the control circuit is adapted to cause periodic transmission of a coded infrared signal from the infrared radiation transmitter. Deighton ('172) fails to disclose that the key depends downwardly from a pet collar or the beam angle. De la Cerda ('096) discloses using a key on a pet collar and as shown in Figure 5, also teaches a beam angle of 60 degrees. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the key of Deighton ('172) with the pet collar and beam angle of De La Cerda ('096) since the pet collar is a secure and easy way to attach the key to a pet and the 60 degree angle provides a wide



transmission area to lessen the chance that the pet will not be standing in the correct location in interact with the infrared receiver. In addition, it is clear from Figure 5 of De La Cerda that the key is inclined at an angle of approximately 45 degrees from the horizontal and implies that the signal is inherently directed out from the end at approximately 45 degrees and would have been obvious to one of ordinary skill in the art at the time of the invention to direct the signal from the end of the key where the window is which is shown by Deighton ('172).

Claims 24 and 25 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Deighton ('172) in view of De La Cerda (5,992,096) as applied to claim 19 above, and further in view of Kornbrekke ('029). All of the elements of the instant invention are discussed in detail above except providing the beam angle's total angular extent. Kornbrekke ('029) discloses an angular extend of 20 degrees (i.e., about 24 degrees). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the key of Deighton ('172) with the beam angle of Kornbrekke ('029) since a small angle allows the key to interact with the receiver only when intended as well as preventing the pet door to open whenever the pet having the key/collar in nearby.

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are more limiting than that of the claims. With respect to the drawings, the applicant states that the latches are the same

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and work the same in the first embodiment (figures 1 and 2) as in the second embodiment (figures 3 and 4). The applicant is incorrect. Firstly, as stated above and in the previous office action, how does latch 14 move? What moves latch 14? There are two latches in the second embodiment so how are the latches in the second embodiment "the same" as THE LATCH in the first embodiment? Secondly, it is unclear how the flap and the latch of Figures 3 and 4 are engaged as discussed in detail above. With respect to the applicant's arguments under 35 U.S.C. 103, it appears that the applicant's arguments are more limiting than that of the claims. The phraseology "adapted to..." fails to positively recite the claimed invention and therefore carries little to no patentable weight. Furthermore, infrared beams are well known for producing "conical" shaped beams since this is a simple engineering design produced from a beam of light producing a wavelength. Still furthermore, the applicant argues that the teaching of Harris are in a totally different field of endeavor. The Examiner respectfully disagrees. One of ordinary skill in the art would look to Harris for the teaching of an infrared operating device and as discussed in detail above one would use the teachings of Harris to operate and move a door upon detection of a signal.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-F from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jerry Redman/  
Primary Examiner, Art Unit 3634

